

REMARKS

Amendments to the Claims

The Examiner indicated that claim 25 and the second claim 59, although identified as “cancelled,” still recited the claim language. The Examiner requested that applicant submit a copy of the List of Claims that does not contain claim 25 or the second claim 59. In accordance with the Examiner’s wish, applicants provide herewith a List of Claims wherein claim 25 and the second claim 59 are canceled. Applicants note that two distinct claims were inadvertently assigned “Claim 59” in a prior amendment. Applicants maintain the first assigned claim 59 and have canceled the second assigned claim 59. Thus, claims 1-24 and 26-65 are pending.

The Rejection Under 35 U.S.C. § 102(b)

Applicants thank the Examiner for his time and assistance during an October 26, 2005 telephone conference with applicants’ representative to discuss the instant Office Action and the rejection made therein. The Examiner has rejected claims 1, 2, 10, 17, 19, 26, 38, 39, 51, 58 and 65 under 35 U.S.C. § 102(b) as allegedly being a public use or on sale more than one year prior to the filing date of the above-referenced application. The Examiner states that to properly consider the patentability of the claimed invention under 35 U.S.C. § 102(b), applicants must provide a comparative declaration showing that the product of the instant claims is distinct from that of the catheter sold. Applicants respectfully traverse.

As evidenced by a print out of a database record from the licensee, Arrow International Inc. (“Arrow”), submitted in a September 7, 2005 Supplemental

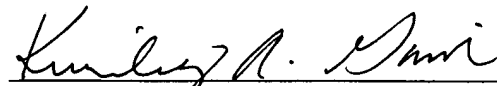
Information Disclosure Statement, the first U.S. sale by Arrow of a triple lumen catheter was made on April 12, 2000. The date of sale is shown in the right-most column of the database record. This sale was made less than one year prior to the filing date of the present application, U.S. application No. 09/746,670, filed on December 22, 2000. Accordingly, applicants respectfully request that the rejection of claims 1, 2, 10, 17, 19, 26, 38, 39, 51, 58 and 65 under 35 U.S.C. § 102(b) be withdrawn.

Conclusion

Applicants believe that claims 1-24 and 26-65 are in condition for allowance and respectfully request an early allowance.

Applicants believe that no additional fee is required in connection with the filing of this response. If any fee is required, or any overpayment has been made, the Director is hereby authorized, in the enclosed Transmittal form (submitted in duplicate), to charge any fees, or credit any overpayments made, to Deposit Account 02-4377.

Respectfully submitted,



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